

04 JUL -7 PM 2:57
REC'D
CAMERON G. BURKE
CLERK IDAHO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
HINCKLEY, JACQUELINE T.
HLADUN, MARILYN J. CRAIG,
JEFFERY P. CLEVINGER, and
TIMOTHY C. KAUFMANN, individually
and on behalf of those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**PARTIES' AMENDED STIPULATED
MOTION TO ESTABLISH NEW
BRIEFING SCHEDULE ON FINAL
CLASS CERTIFICATION AND
ADDRESS CERTAIN DISCOVERY
MATTERS**

COMES NOW the above-named Plaintiffs and the Defendant (the "Parties") and hereby stipulate and so respectfully move that the Court enter an order regarding the same:

1. The Parties previously stipulated to certain of the items set forth below (*see* Docket No. 188), however, as that prior Stipulation was not effected in its entirety by order of

**PARTIES' AMENDED STIPULATED MOTION TO ESTABLISH NEW BRIEFING
SCHEDULE ON FINAL CLASS CERTIFICATION AND ADDRESS CERTAIN
DISCOVERY MATTERS - 1**

Boise-172926.2 0026493-00046

ORIGINAL

265

the Court (*see* Order of Magistrate Williams, Docket No. 192), and since the Parties wish to alter the previously-proposed certification briefing schedule, this Amended Stipulation is being filed.

2. In the interests of resolving the case expeditiously and to avoid further expenditure of resources, the Parties held a one-day mediation with Merlyn W. Clark of Clark Dispute Resolution, LLC, in Boise, Idaho, on June 16, 2004 (lasting from 9:00 a.m. until approximately 4:00 p.m.). Unfortunately, the mediation was not successful, and the case did not settle. Additionally, at this time the Parties do not wish to keep the two-day mediation scheduled before Mr. Clark for August 23-24 (Docket No. 172). In light of the unsuccessful June 16, 2004 mediation, and the Parties' position as shared at that mediation, the Parties do not feel the August mediation would be productive or in the best interests of their respective clients.

3. Now that the case has not settled, the Parties will resume all discovery and litigation proceedings in this matter that the Parties stayed pending completion of the June 16, 2004 mediation. In addition, the Parties wish to revive the responsive briefing schedule on Defendant's Partial Summary Judgment Motion on Commission Overtime Premiums (Docket Nos. 179-183). With respect to this motion, the Parties request that Plaintiffs' opposition briefing to Docket Nos. 179-183 shall be due on **July 16, 2004**.

4. Pursuant to the Parties' previous stipulation, Plaintiffs delayed responding to certain of Defendant's discovery requests until after the June 16, 2004 mediation. The Parties request that Plaintiffs' responses to these discovery requests be due 30 days from June 17, 2004. Specifically, Plaintiffs' responses to (i) Defendant's First Set of Requests for Admissions, the requests which address dates of employment (for example, Nos. 1-2, 5-6, 9-10, 13-14, etc.) and

**PARTIES' AMENDED STIPULATED MOTION TO ESTABLISH NEW BRIEFING
SCHEDULE ON FINAL CLASS CERTIFICATION AND ADDRESS CERTAIN
DISCOVERY MATTERS - 2**

from (ii) Defendant's Second Set of Interrogatories Nos. 15, and 21-23, shall be due on **July 16, 2004.**

5. Plaintiffs' response to Defendant's Motion to Strike Consents and Dismiss Certain Claimants (Docket Nos. 189-191) was not covered by the Parties' agreement to stay. However, the Parties request that Plaintiffs' response to Docket Nos. 189-191 shall be due on **July 7, 2004.**

6. Pursuant to agreement of the Parties and permission of the Court, the hearing on final class certification that was previously set for July 13, 2004 at 8:00 a.m. (Docket No. 166, p.3, ¶ 8), has already been vacated and notice served and filed resetting said hearing for September 22, 2004 at 1:00 p.m. (Docket No. 186).

7. In order to complete discovery, the Parties agree and move that the briefing schedule previously set concerning final class certification (Docket No. 166, p.3, ¶ 7) be reset as follows:

Plaintiffs' motion and supporting briefing for final class certification shall be filed on or before **August 13, 2004.**

All Defendants' response briefing opposing final certification shall be filed on or before **September 3, 2004.**

Plaintiffs' reply briefing in support of final class certification shall be filed on or before **September 13, 2004.**

8. The Parties further agree and move that the expert disclosure deadlines previously set by the Court (Docket No. 166, p.3, ¶¶ 9-10), be amended as follows:

PARTIES' AMENDED STIPULATED MOTION TO ESTABLISH NEW BRIEFING SCHEDULE ON FINAL CLASS CERTIFICATION AND ADDRESS CERTAIN DISCOVERY MATTERS - 3

Boise-172926.2 0026493-00046

The Plaintiffs shall disclose the experts they intend to be called at trial regarding non-class certification issues on or before **October 15, 2004.**

The Defendant shall disclose the experts it intends to be called at trial regarding non-class certification issues on or before **November 19, 2004.**

All rebuttal experts shall be identified on or before **December 17, 2004.**

9. The Parties also specifically agree and represent to the Court that this proposed schedule and suspension of certain discovery and briefing deadlines shall not prejudice, compromise or alter the trial date previously set in this case for July 11, 2005. (Docket No. 166, p.1, ¶ 1.)

DATED 7/6/04

By: [Signature]

Attorneys for Plaintiffs
William H. Thomas
Daniel E. Williams
Christopher F. Huntley
HUNTLEY PARK LLP
250 S. Fifth Street, Suite 660
Boise, ID 83701-2188

DATED 7-2-04

By: [Signature]

Attorneys for Defendant
Kim Dockstader
Gregory C. Tollefson
STOEL RIVES LLP
101 South Capitol Boulevard
Suite 1900
Boise, ID 83702-5958

**PARTIES' AMENDED STIPULATED MOTION TO ESTABLISH NEW BRIEFING
SCHEDULE ON FINAL CLASS CERTIFICATION AND ADDRESS CERTAIN
DISCOVERY MATTERS - 4**

Boise-172926.2 0026493-00046